



September 18, 2002

Ms. Karen Pettigrew
General Counsel
Texas Commission on Alcohol and Drug Abuse
P.O. Box 80529
Austin, Texas 78708-0529

OR2002-5266

Dear Ms. Pettigrew:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 168800.

The Texas Commission on Alcohol and Drug Abuse (the "commission") received a request for the telephone numbers and e-mail addresses of "current LCDCs." You claim that the requested information is excepted from disclosure under section 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information does not include any telephone numbers of current LCDCs. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. Therefore, to the extent information responsive to this aspect of the request exists, we assume that you have released it to the requestor. If you have not released any such information, you must release it to the requestor at this time. *See* Gov't Code §§ 552.301(a), .302.

In regard to the submitted information, section 552.137 of the Government Code provides in relevant part:

- (a) An e-mail address *of a member of the public* that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under this chapter.

¹We note that section 552.137 of the Government Code is identical to section 552.136.

(b) Confidential information described by this section that relates to a member of the public may be disclosed if the member of the public affirmatively consents to its release. [Emphasis added.]

Section 552.137 requires the commission to withhold e-mail addresses of members of the public that are provided for the purpose of communicating electronically with the commission, unless the members of the public have affirmatively consented to their release. As there is no indication that the members of the public have consented to release of the e-mail addresses in question, pursuant to section 552.137 of the Government Code, the commission must withhold the e-mail addresses of members of the public. We note that section 552.137 does not apply to a government employee's work e-mail address. We have marked a representative sample of the e-mail addresses that must be withheld.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

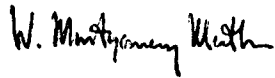
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 168800

Enc: Submitted documents

c: Ms. Shelley Pillittere
Texas Association of Addiction Professionals
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(w/o enclosures)